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MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON TX 77027

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OFFICE OF PETITIONS

In re Application of :
Tock et al. :
Application Number: 09/849181 : DECISION ON PETITION
Filing Date: 05/05/2001 :
Attorney Docket Number: :
I01102/03102 :

This is a decision on the renewed petition filed on January 28, 2008, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 20, 2003, for failure to submit a timely and proper response to the Office action

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

mailed in accordance with Ex parte Quayle² mailed on May 19, 2003, which set a two (2) month shortened statutory period for reply. On August 26, 2003 (certificate of mailing date August 19, 2003), an amendment was filed, accompanied by a one (1) month extension of time in accordance with 37 CFR 1.136(a). The amendment, however, is considered non-compliant for failure to meet the requirements of 37 CFR 1.121, and a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on September 10, 2003, notifying applicants that a corrected amendment was required. Notice of Abandonment was mailed on September 13, 2004.

On October 18, 2004, a petition to withdraw the holding of abandonment was filed. On May 21, 2007, the petition was dismissed. On November 13, 2007, a petition under 37 CFR 1.137(b) was filed. On January 10, 2008, the petition was dismissed.

On January 28, 2008, the present renewed petition was filed.

Petitioner's reply filed on January 28, 2008, has been deemed to place this case in condition for allowance.

The application file is being referred to Technology Center Art Unit 1732 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

² 1935 C.D. 11, 453 OG. 213.